

1 THOMAS H. ZELLERBACH (SBN 154557)
tzellerbach@orrick.com
2 MORVARID METANAT (SBN 268228)
mmetanat@orrick.com
3 ORRICK, HERRINGTON & SUTCLIFFE LLP
1000 Marsh Road
4 Menlo Park, CA 94025
Telephone: +1-650-614-7400
5 Facsimile: +1-650-614-7401

6 Attorneys for Plaintiff
ZOOSK, INC.

7
8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 OAKLAND DIVISION
11

12 ZOOSK, INC.,

13 Plaintiff,

14 v.

15 DOE 1, aka "Carson Dyle," an
individual, and DOES 2-25,
16 individuals,

17 Defendants.
18
19
20
21
22
23
24
25
26
27
28

Case No. 10-cv-04545-LB

**STIPULATED [~~PROPOSED~~]
CONSENT DECREE AND
PERMANENT INJUNCTION**

1
2 1. Plaintiff Zoosk, Inc. ("Zoosk") filed this action on October 10, 2010 asserting that
3 Doe defendants published false statements accusing Zoosk of covertly installing malicious
4 software (including viruses) on its users' computers, invading its users' privacy, and secretly
5 selling user data to third-parties. Zoosk asserts claims for Libel Per Se; Trade Libel; and
6 Intentional Interference with Prospective Economic Advantage.

7 2. After seeking early discovery, Zoosk identified Byron Lock as Doe Defendant 1
8 ("Lock") (Zoosk and Lock collectively the "Parties"). Zoosk subsequently served Lock with a
9 copy of the Complaint on April 22, 2011 and a copy of the First Amended Complaint on
10 June 14, 2011.

11 3. The Parties have entered into a Settlement Agreement which provides for the
12 entry of this Stipulated Consent Decree.

13 4. This Court has original jurisdiction over these claims pursuant to 28 U.S.C.
14 Section 1332.

15 5. Lock admits that he posted and re-published false statements to the Twitter
16 account registered to his pseudonym "Carson Dyle" and named "Squirrel Juice." These
17 statements include false accusations that Zoosk covertly installs malicious software (including
18 viruses) onto its user's computers, invades its users' privacy, and secretly sells its users' data to
19 third parties.

20 6. Lock consents and subjects himself to the jurisdiction of this Court with respect to
21 this matter and enforcement of this Consent Decree and its terms.

22 7. Pursuant to Federal Rule of Civil Procedure 65(d), Lock shall be and is hereby
23 PERMANENTLY RESTRAINED AND ENJOINED from:

24 a. making and/or disseminating defamatory, untrue and/or misleading
25 statements regarding Zoosk, its service, and/or its employees. This
26 includes, but is not limited to the following:

27 i. defamatory, untrue and/or misleading statements that
28 Zoosk covertly installs malicious software (including viruses) on its users'
computers;

ii. defamatory, untrue and/or misleading statements that Zoosk invades its users' privacy; and

iii. defamatory, untrue and/or misleading statements that Zoosk secretly sells user data to third-parties;

b. assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referred to in subparagraphs 1(a)(i)-(iii) above.

8. This Court shall retain jurisdiction over the subject matter hereof and over Lock to ensure compliance with this Consent Decree.

9. Any proceeding before this Court to enforce the terms of this Consent Decree shall be resolved by means of a noticed motion without the necessity of filing a new and separate action. The parties to such proceedings will be permitted to submit evidence and memorandums of points and authorities according to the ordinary briefing requirements for a noticed motion as set forth by the Federal Rules of Civil Procedure and this Court's local rules then in effect. The Court shall have discretion to allow live testimony or other evidence in addition to any documentary evidence or declarations submitted as part of the noticed motion briefings.

10. The Court shall determine whether Lock has violated the terms of this Consent Decree pursuant to this definition. A "violation" shall be defined as the failure to comply with paragraphs 1.a. and 1.b. above.

///

///

///

///

///

///

///

///

///

1
2 ZOOSK, INC.

3 *M. [Signature]*

4 Title: Attorneys for Plaintiff

5 Dated: 7/08/11

6
7 BYRON LOCK

8 *[Signature]*

9 Dated: 6.20.11

10
11
12 **IT IS SO ORDERED.**

13 Dated this 25 day of July, 2011

14
15 HON. LAUREL BEELER
16 UNITED STATES MAGISTRATE JUDGE

